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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/726,958	11/30/2000	Joseph Lei	1015/201	1120

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EXAMINER

FREJD, RUSSELL WARREN

ART UNIT	PAPER NUMBER
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2128

DATE MAILED: 09/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/726,958	LEI ET AL.	
	Examiner	Art Unit	
	Russell Frejd	2128	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 November 2000.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) 1-13 and 17 is/are allowed.
6) ☒ Claim(s) 14-16 and 18 is/are rejected.
7) ☒ Claim(s) 19 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>11.30.00</u> . | 6) <input type="checkbox"/> Other: _____ |

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Examination of Application #09/726,958

1. Claims 1-19 of application 09/726,958, filed on 30-November-2000, are presented for examination.

Claim Rejections under 35 U.S.C. § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 14-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Elliott, patent no. 6,446,053.

3.1 Elliott disclosed the invention as claimed, including a computer-implemented system that enables a user to create a comprehensive proposal for a construction project and submit the

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proposal for a bid to construction professionals all from the user's computer [col. 3, lines 36-40] comprising: a plan database containing a wide range of blue prints and building plans that can be accessed by the user [col. 4, lines 63-4](applicant's predetermined physical attributes);

the user is prompted to enter geographic data corresponding to the location of the site [col. 6, line 1](applicant's user identifying the space to be occupied);

a digital image of the project appropriate to the immediate phase and step [col. 6, lines 43-45], including floor planning [col. 9, lines 4-25](applicant's displaying an image to the user representing the floor plan);

prompting the user to manipulate the image to add or remove features and materials, change dimensions, etc. [col. 6, lines 47-50], the prompting including instructions, recommendations, and warnings designed to guide the user to make the best selection for the project [col. 6, lines 53-56](applicant's making different improvement options available to the user, the user selecting the improvement options, and the improved image being provided to the user);

the user selecting a general contractor to which to send the bid for the proposal [col. 10, lines 49-55](applicant's handling a transaction between the user and service provider to engage the service provider to remodel the space) (claims 14 and 15).

A networked communication system [col. 5, lines 9-24](applicant's Internet connection)(claim 16).

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Claim Rejections under 35 U.S.C. § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459

(1966), that are applied for establishing a background for determining obviousness under 35

U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering the objective evidence present in the application indicating obviousness or nonobviousness.

5. Claim 18 is rejected under 35 U.S.C. 103 as being unpatentable over Elliott, patent no. 6,446,053.

5.1 Elliott disclosed the invention substantially as claimed, including prompting the user to manipulate the image to add or remove features and materials, change dimensions, etc. [col. 6, lines 47-50], the prompting including instructions, recommendations, and warnings designed to guide the user to make the best selection for the project [col. 6, lines 53-56](applicant's offering the user an opportunity to customize the layout); and

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a plan database containing a wide range of blue prints and building plans that can be accessed by the user appropriate to the immediate phase and step [col. 4, lines 63-4](applicant's performing service to customize the room prior to move in).

5.2 Elliott does not specifically disclose customizing a dormitory room. However, Elliott does disclose projects for kitchens and bathrooms [col. 7, Table 1, line 44]. It would have been obvious for one of ordinary skill in the art to modify the method of Elliott to include dormitory rooms in the construction proposal because an individual considering a construction project, including a remodeling project, needs to forecast important details of the project to prevent costly price overruns and construction delays [col. 1, lines 7-18].

Claim Objections

6. Claim 19 is objected to for incorporating the rejection of its respective base claim by dependency.

Allowable Claims

7. Claims 1-13 and 17 are deemed allowable by the Examiner over the prior art of record at this time.

Response Guidelines

8. A shortened statutory period for response to this action is set to expire **3 (three) months and 0 (zero) days** from the date of this letter. Failure to respond within the period for response will cause the application to become abandoned (see MPEP 710.02, 710.02(b)).

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9. Any response to the Examiner in regard to this non-final action should be

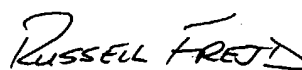
directed to: Russell Frejd, telephone number (703) 305-4839, Monday-Friday from 0530 to 1400 ET, **or** the examiner's supervisor, Jean Homere, telephone number (703) 308-6647. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist, telephone number (703) 305-3900.

mailed to: Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to: (703) 872-9306

Hand-delivered responses should be brought to 220 South 20th Street, Crystal Plaza Two, Lobby, Room 1B03, Arlington. VA., 22202.

Date: 19-September-2004

A handwritten signature in dark ink, reading "RUSSELL FREJD", is written over a horizontal line.

**RUSSELL FREJD
PRIMARY EXAMINER**